IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWELFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

WRIT PETITION No.4422 of 1995

Between:

N.V.Subba Rao,
Nagarjuna Street, Brindavan Gardens,
Guntur.

..... PETITIONER

AND

1 Central Bank of India, having its Central Office

at Nariman Point, Bombay, through its Chairman & Managing Director.
2 Zonal Manager, Central Bank of India,
Zonal Office, Hyderabad.
3 Regional Manager, Central Bank of India,
Regional Office Vijayawada.
4 Branch Manager, Central Bank of India,
Guntur.
5 The Disciplinary Authority (Zonal Manager), Central Bank of India,
Zonal Office, Hyderabad.
6 The Appellate Authority under Central Bank of India

Officer Employees (Discipline & Appeal),
Regulations 1976, Central Bank of India, Nariman Point,

Bombay.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate writ or writs, order or direction, declaring and setting aside the order dt.29-3-94 passed in proceedings No.ZO:PRS:DAW:VIJ:93-94/1837 on the file of the 5th Respondent, and the order of the sixth Respondent as conveyed

through the Proceedings dt.13.12.1994 in the Procgs.No.GNT/Staff/94-95/62 on the file of the fourth Respondent as illegal, arbitrary, without jurisdiction and against the principles of natural justice ; Award costs and pass such other or further orders, as are deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner: Smt. BOBBA VIJAYALAKSHMI

Counsel for the Respondents: Mr. RAMESH

The Court made the following :

JUDGMENT:

This writ petition is filed seeking a Mandamus declaring the Order dated 29-3-1994 passed in Proceedings No.ZO:PRS:DAW:VIJ:93-94/1837 on the file of the 5th Respondent as confirmed by the order of the sixth Respondent as conveyed through the Proceedings dt.13.12.1994 in the Proceedings No.GNT/Staff/94-95/62 on the file of the fourth respondent as arbitrary and illegal.

It is the case of the petitioner that he was appointed in the respondent-Bank in the year 1953 as Godown Keeper at Guntur. In the year 1954, he was posted at Tadepalligudem to monitor the bank's advances against rice etc. He got appreciation from the then Chief Agent of Vijayawada for discovering fraudulent stocks of rice husks lodged in the key godown of the borrowers and for recovering the full value thereof. Thereafter, he was posted as a godown keeper in the Chief Agent's office from 1956 to 1972 to control the advances of Vijayawada group. His services were appreciated at every stage. He served the stalwarts like M/s. K.Venkateswaran, NBS Maniam, PRS Vaidyanathan, T.M.Gopala Swamy etc., of the respondent-Bank. In the year 1972, he was converted to the category of Clerk and in 1976 he was promoted as Scale I Officer and was posted to Visakhapatnam Branch, which was in a mess. In the year 1977, he was transferred back to Vijayawada and was made incharge of deposit mobilization at Regional Office. Even at this office, he received letter of appreciation for the excellent service rendered by him. His services were also availed by the management at Governorpet, Vijayawada and Gudivada as Accountant. In recognition of his services, he was posted as Manager at Mango Market, Vijayawada branch in the year 1984. There, he improved the deposit of the branch from Rs.25.00 lakhs in September,1984 to Rs.170.0 lakhs by June,1987. Further, in the year 1987, he was promoted as Scale II Officer and posted as Assistant Branch Manager at Warangal. Thereafter, he was posted as Branch Manager at Guntur in 1989 when the branch

was running in loss. In the year 1992, the Banch had reversed the trend and registered a profit of Rs.10.38 lakhs due to corrective steps taken by him. He also asserted that during 41 years of his service rendered in the Bank, he worked with utmost sincerity. For the entire 41 years of service, he did not receive any memo or charge sheet. While so, he was placed under suspension on 9-3-1992. Thereafter, a charge memo dated 22-8-1992 was issued and an Enquiry Officer was also appointed. The sum and substance of the charge was that he had allowed overdraft facility to some organization, which is not entitled for the same, though no loss was caused to the organization. The enquiry was conducted without giving proper opportunity to him and several important documents, which throw light about the charges framed against him, were not supplied in spite of specific request made by him, saying that they are privileged and confidential documents. According to the Enquiry Officer, some charges are proved, some are partly proved and some are not proved. In fact, all the charges are attributable to one transaction and it is fragmented into so many charges only to highlight the irregularities committed by him. The disciplinary authority basing on the Enquiry Officer's report had differed with certain findings and in spite of detailed written arguments submitted and explanation given to the second show cause notice, passed final orders dated 29-3-1994 by the 3rd respondent in his Proceedings No.ZO:PRS:DAW:VIJ:93-94/1837 dismissing him from service. Aggrieved by that order, he preferred an appeal; however, the same was not properly considered and rejected without assigning any reasons through Proceedings dated 13-12-1994. Hence, this writ petition.

On behalf of the respondents a detailed counter affidavit has been filed denying the allegations made by the petitioner. It is stated *inter alia* that the charges pertain to several violations committed by the petitioner in respect of the overdraft facility. As per the terms of sanction, the petitioner has to take immovable property as security by deposit of title deeds, which shall be double the amount of advances sanctioned/availed. The petitioner failed to follow the normal procedure as per the manual of instructions for creating an equitable mortgage. The petitioner did not take letters of application to offer property as security from mortgagors. The confirmation letters from the mortgagors confirming the correction of equitable mortgages were not taken. The branch did not send letters to mortgagors giving list of title deeds deposited. At no point of time, the value of the mortgaged property was double the amount of overdraft limit allowed to M/s.A.P.Enterprises. In some cases, Xerox

copies of the title deeds were accepted instead of original title deeds, which is in gross violation of the procedure laid down. In another instance, Xerox copy of gift deed dated 25-1-1991 was produced in support of equitable mortgage said to have been created on 23-10-1990. The petitioner did not obtain Encumbrance Certificates in respect of property taken as security. The petitioner did not take usual precaution of taking legal opinion of panel advocate while accepting the immovable property as security. Therefore, the allegation made by the petitioner that the Central Office and Regional Office increased overdraft facility even without the recommendations from the Branch are incorrect. Further, the allegations that the higher authorities are responsible for the activities and transactions of M/s.A.P.Enterprises and that the petitioner was merely implementing the instructions are false and devoid of any substance. The assertion that the finding of the Enquiry Officer on the first charge are perverse and without any basis is not correct. The Regional Office, Vijayawada conveyed sanction only for 211 plot loans, whereas the petitioner disbursed 811 loans without the sanction of Regional Office. Even though the petitioner was asked to stop further disbursement as per the letter dated 15-5-1991, he released 136 loans subsequently abusing his authority and disbursed 957 term loans; as a result of which the funds of the bank to a tune of Rs.95.70 lakhs excluding the interest thereon are blocked and left unsecured. The appeal preferred by the petitioner was considered by the appellate authority in detail and rejected by giving valid reasons. The petitioner could not have any grievance and the misconduct committed by him is grave in nature and the impugned order does not deserve any interference of this Court.

Learned counsel for the petitioner contended that the charges are trivial in nature and even otherwise no loss was caused to the respondent-Bank. In fact, the petitioner was working under the instructions given by the higher officers. The sanction of overdraft facility to M/s. A.P. Enterprises was being received by the branch in writing as well as orally, over telephone, from time to time. In none of the occasions, any terms and conditions are stipulated except the routine guidelines pertaining to the rate of interest etc. The overdraft facility allowed to M/s. A.P.Enterprises was sanctioned by the Regional Office upto Rs.2.50 lakhs on 19-11-1990, which is evident from M.E.3 and the same was also regularized by the Central Office, which is conveyed through Regional Office as per M.E.4 dated 23-11-1990 and the quantum of facility was increased to Rs.12.00 lakhs without any recommendation from the Branch. This itself would clearly show that the petitioner

has not committed any error and he has been following the instructions of the higher authorities. Overdraft facility was continuously allowed by the higher authorities and not by the petitioner. The same is evident from M.E. 14 to 16,21,22,25,66 and 74. Insofar as housing plot loans were concerned, absolutely no loss is caused to the respondent-Bank and no procedural norms prescribed by the bank were violated by the petitioner. Even it is not the case of the petitioner that any loss is sustained or the petitioner obtained any pecuniary gain. Assuming that even if the charges are proved, the punishment of dismissal from service is shockingly disproportionate to that of the misconduct alleged and proved against the petitioner. The petitioner rendered 41 years of unblemished service and Ithough he had appreciations wherever he worked, in writing. The management, even if there are certain procedural irregularities committed by the petitioner, could have taken a lenient view and imposed a lesser punishment. Insofar as sanction of term loans to 957 individuals for the purpose of purchase of plots was concerned, there is a sanction from the Central Office, in principle, for the entire number of loans to all the similarly placed persons.

Per contra, the learned counsel for the respondents contended that the charges are grave in nature and they are all proved and for each charge proved or partly proved, the Enquiry Officer suggested certain punishment. The disciplinary authority after looking into the entire record, came to the conclusion that the charges are proved in full and the petitioner is liable to be dismissed from service. No lenience can be taken for the purpose of imposing a punishment.

I have given my earnest consideration to the submissions made by the both the learned counsel, perused the order of the disciplinary authority as confirmed by the appellate authority and also other material made available on record.

At the outset, it may be noticed that the assertion made by the petitioner that he had rendered 41 years of long service in the Bank without any blame and Ithough he had appreciations after appreciations, was not denied by the Bank.

The charges that are proved against the petitioner have not resulted in any loss caused to the Bank, financially. It is not the case of the Bank that the petitioner has obtained any pecuniary gain out of these transactions, either allowing overdraft

facility to M/s. A.P. Enterprises or granting loans for the purpose of purchase of plots. The bone of contention of the respondent-management is that the petitioner had violated the norms and procedure for the purpose of allowing overdraft facility and sanctioning loans for the purchase of plots. The petitioner has categorically asserted that the overdraft facility was continuously allowed by the higher authorities and the same is evident from M.E. 14 to 16,21,22,25,66 and 74. There is no categorical denial of the same in the counter affidavit except saying that the higher authorities only assessed the genuine requirements of the party from time to time and the petitioner was instructed just to release the facility etc. Insofar as granting of personal loans for purchase of housing plots was concerned, the petitioner stated that, in principle, he assumed that a sanction was permissible, which is not categorically denied in the counter filed before this Court. It is not the case of the respondent-management that the petitioner had any *mala fide* intention or corrupt motives. The only allegation is that the petitioner has committed certain procedural irregularities. But, as seen from the above discussion, each and every overdraft facility given by the petitioner purported to be on the instructions of higher authorities was approved by the higher officers and no loss was caused to the Bank. Even in the sanction of term loans nothing is attributed against the petitioner as to corrupt practices etc., except saying that strict norms prescribed by the Bank were not followed. In nutshell, the misconduct alleged against the petitioner is not following the strict procedure of the Bank. But, nowhere it is stated that the Bank has suffered any loss in all the transactions against which it was alleged that the petitioner did not follow the procedure. The petitioner admittedly rendered 41 years of meritorious and unblemished service. In the light of this, the punishment of dismissal from service for mere not following the procedure of the Bank even assuming the same was proved, is shockingly disproportionate to that of the misconduct alleged against the petitioner. The authorities could have considered imposing any other lesser punishment than that of dismissal from service.

For all the above reasons, the impugned order dated 29-3-1994 of the 5th respondent as confirmed by the appellate authority – 6th respondent – is set aside. However, instead of remitting the matter for reconsideration to the disciplinary authority as to imposing a lesser punishment, since the petitioner as of now is more than 72 years old and the incident happened just before his retirement, it is better to give a quietus to this litigation at this stage itself. This Court is of the considered

opinion that a punishment of reduction of pay in the time-scale by three incremental stages would be a proper and reasonable punishment for the charges proved against the petitioner.

In the result, the writ petition is allowed and the respondents shall impose a punishment of reduction of pay in the time scale by three incremental stages against the petitioner. The respondents shall settle all the retiral benefits of the petitioner accruing after imposing the above punishment, within a period of two months from the date of receipt of a copy of this order. No order as to costs.

12-4-2005

prk

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this the Tuesday, Twelfth day of April Two thousand and Five.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

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